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Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Chapter 61. General Provisions

§6101. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements regarding the general operation of the board.

B. This board is the sole competent pilotage authority statutorily created for the purpose of regulating, supervising and overseeing the body of pilots authorized by R.S. 34:1042, et seq. These rules shall apply to all applicants, apprentice pilots and commissioned pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6102. Definitions

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge Steamship Pilots.

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or Pilot Association—the New Orleans and Baton Rouge Steamship Pilots Association.

Board of Examiners or Board—the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as designated in R.S. 34:1042.

Examiner(s)—those individuals appointed, as per law, to be members of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots.

Pilot(s)—New Orleans and Baton Rouge steamship pilot(s), as designated in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the

Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010), LR 38:3165 (December 2012).

§6103. Appointment

A. When there is a need for new examiners, the board shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises the board shall recommend only those pilots who have served at least five years as an unrestricted Louisiana state commissioned New Orleans and Baton Rouge steamship pilot.

C. Examiners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, examiners shall not suffer any loss of benefits or compensation while they are performing their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6104. Expenses

A. The board shall maintain an office and conduct business as is necessary to fulfill its legislative mandate and/or as may be required by these rules.

B. All ordinary and necessary operating and administrative costs and expenses of the board, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, examiners' reimbursement, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the board while performing its duties shall be provided by the pilots and timely paid through their pilot association.

C. The board shall have the authority to hire administrative staff and any other staff, independent contractors or investigators in order to provide assistance in the implementation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and

Baton Rouge Steamship Pilots for the Mississippi River, LR 36:493 (March 2010).

§6105. Rules, Records, Meetings, Application , Meetings, Application

A. All board rules must be adopted by a majority of the examiners. The board shall maintain records in accordance with R.S. 44:1 et seq., and all other state laws. The board shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The board shall conduct its meetings in accordance with R.S. 42:4.1 et seq., and any other state laws.

B. The board shall hold quarterly meetings on the call of the president or by a majority of the examiners. The president has the prerogative of calling additional meetings as needed to conduct business upon giving proper notice, as required by law.

C. Any formal action taken by the board shall be by a majority vote when there is a quorum present. A majority of the board constitutes a quorum.

D. These rules shall apply to all applicants, apprentice pilots and New Orleans and Baton Rouge steamship pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010), LR 38:3165 (December 2012).

§6106. Association of Pilots

A. The pilots may form themselves into an association not in conflict with the rules and regulations of the board.

B. The formation of an association incorporated or unincorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the board for approval.

C. The board hereby recognizes the fact that the New Orleans and Baton Rouge steamship pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association.

D. No pilot association, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the board; further, any attempt to exercise any authority over or affecting the board is a violation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6107. Duties and Responsibilities of Pilots

A. It is the duty and responsibility of pilots to provide for dispatching services and to maintain continuous communications sufficient to accept requests and dispatch orders for pilotage services 24 hours each day 7 days each week.

B. The pilots shall organize themselves and be available for duty and accept pilotage assignments in accordance with a work rotation schedule.

C. Notwithstanding any sections of these rules, the board reserves the right to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6108. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

Chapter 62. Qualifications and Examination of Pilots

§6201. Statement of Purpose

A. The purposes of these rules and regulations is to establish standards for recommendation by the board to the governor of the State of Louisiana for appointment as a New Orleans and Baton Rouge steamship pilot, pursuant to R.S. 34:1043.

B. The board is charged by the Louisiana Legislature with the responsibility of promoting the health, safety and welfare of the citizens of the State of Louisiana and maintaining safety of maritime commerce along the Mississippi River. To this end, the board has set the requisite qualifications to become a pilot at a high level. The combination of education, licensing and experience will foster the type of conscientious pilots who will conduct themselves in a professional manner. It is the sole responsibility of each individual state commissioned pilot to

conduct themselves in accordance with the rules and regulations of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6202. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the board in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements regarding the general qualifications and examination of pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:494 (March 2010).

§6203. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

Accredited Institution of Higher Learning—an institution that is accredited by the Commission of Colleges of the Southern Association of Colleges and Schools, the Louisiana Community and Technical College System, or is part of the Louisiana State University System or one whose credits are honored by any of these systems.

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge Steamship Pilots.

Application—the completed written application including all supporting documentation supplied to the board by an applicant who desires to become a New Orleans and Baton Rouge steamship pilot

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or NOBRA—New Orleans and Baton Rouge Steamship Pilot Association.

Board of Examiners or Board—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Deputy Pilot—a commissioned pilot in the Pilot Development Program.

NOBRA Pilot—a state commissioned New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34:1041, et seq.

Pilot Development Program—a period of training and instruction administered to apprentice and deputy pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2472 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010).

§6204. Application

A. Any person wishing to submit an application to enter the Pilot Development Program shall obtain an application from the board. The board's contact information is:

Board of Examiners for New Orleans and Baton Rouge
Steamship Pilots for the Mississippi River
2805 Harvard Avenue, Suite 101
Metairie, Louisiana 70006
Telephone: 1 (504) 887-5797
Facsimile: 1 (504) 887-5799
Website: www.nobraexaminers.louisiana.gov

B. All applications shall be in writing, signed by the applicant and presented to a member of the board or their authorized representative by the applicant. All persons wishing to submit an application shall make an appointment with an examiner or their authorized representative by contacting the board's office. All applications shall be notarized and be accompanied by satisfactory proof of compliance with all of the board's objective requirements. Upon submission a board member or their authorized representative will provide a stamped copy to the applicant indicating the date and time of submission. The board or their authorized representative shall reject all deficient applications and provide an applicant written notice of the specific deficiency.

C. It is the responsibility of the applicant to inform the board of any changes in their contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3165 (December 2012).

§6205. General Requirements

A. An applicant must be of good moral character. An applicant shall be required to submit to a background check conducted by the Jefferson Parish Sheriff's office. An applicant shall sign all pertinent authorization forms allowing the board to obtain and verify the authenticity of all documents submitted to the board.

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B. An applicant must have been a registered voter of the State of Louisiana for the preceding two consecutive years prior to submitting an application.

C. An applicant shall submit proof of a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report). Upon notification of an impending NOBRA selection of apprentices, the applicant shall submit to a physical examination administered by an Examiner appointed physician specializing in occupational medicine no more than 40 days prior to the selection.

D. An applicant must not have reached his forty-fifth birthday prior to the date of selection into the Pilot Development Program.

E. An applicant shall submit evidence of satisfactory completion of training programs approved by the board for the following courses of instruction:

1. bridge resource management;
2. basic ship handling (5 day);
3. radar observer;
4. advanced firefighting; and
5. CPR.

F. An applicant shall provide proof they have passed a board approved drug screen test consistent with the board's drug screen policy (See Chapter 65 of the board's rules) within 30 days prior to submission of an application. Additionally, upon notification of a pending NOBRA selection of apprentices, the applicant shall submit proof that they have passed a board approved drug screen test not more than 40 days prior to the selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3166 (December 2012).

§6206. Licenses/Education/Experience

A. In addition to the above, an applicant must submit satisfactory proof of the following licensing, education and experience criteria.

1. An applicant must hold at least a current First Class Pilots License, Any Gross Tons, upon the Lower Mississippi River from Chalmette, Louisiana to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana, including physical, and, at least, either a Master of Steam or Motor Vessels; or Master of Towing Vessels; or Third Mate; or an equivalent or greater United States Coast Guard license.

a. Notwithstanding Paragraph A.1 of this Section, an applicant with First Class pilotage from the Industrial Fore Bay, mile marker 92.7 AHP, to the Port Allen Fore Bay, mile marker 228.5 AHP, shall be eligible for selection into the Pilot Development Program. However, an applicant

selected for the Pilot Development Program shall be required to obtain First Class pilotage from mile marker 88.0 AHP to Baton Rouge Railroad and Highway Bridge prior to commissioning.

2. An applicant must hold a Bachelor degree from an accredited maritime academy approved by and conducted under rules prescribed by the Federal Maritime Administrator and listed at Title 46, *Code of Federal Regulations*, Part 310.

NOTE: Should the association choose to select entrants into the Pilot Development Program prior to January 1, 2018, applicants who hold at least a Bachelor degree from an accredited institution of higher learning may be presented to the association for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2473 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:495 (March 2010), LR 38:3166 (December 2012).

§6207. Notice of Apprentice Selection

A. At least 50 days prior to an apprentice selection, NOBRA must inform the board, in writing, that a selection will be held and the date of the selection.

B. At least 40 days prior to the apprentice selection, the board will advertise the date of the apprentice selection, as well as the deadline for submission of application materials, in at least two periodicals, one of which shall have a circulation of the greater New Orleans area and one of which shall have a circulation of the greater Baton Rouge area. In addition, all relevant dates will be posted on the board's website.

C. At least 30 days prior to the apprentice selection, the board will give notice, via U.S. Mail, to all applicants of the date of the selection and the deadline for submitting documentation in support of their application.

D. The deadline for submitting an application and supporting documentation, shall be 3 p.m., 20 days prior to the apprentice selection.

E. At least 18 days prior to the apprentice selection, the board will forward to NOBRA a list of all qualified candidates and supporting documentation of all candidates who meet the criteria for selection, as enumerated in the board's rules.

F. At the conclusion of a NOBRA apprentice selection, NOBRA shall provide the board, in writing, a list of those candidates selected for admission into the Pilot Development Program as an Apprentice Pilot. The board shall unilaterally determine the maximum number apprentices admitted into the Pilot Development Program at any given time. After receipt of notification from NOBRA, the board will notify the selected applicant via U.S. Mail of the time, date and location of the commencement of the Pilot Development Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3166 (December 2012).

§6208. Expiration of Applications

A. Following an apprentice selection, all unselected applications on file with the board will be deemed expired and destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3166 (December 2012).

§6209. Pilot Development Program

A. The Pilot Development Program is a mandatory program administered by the board for all Association selected applicants wherein each applicant must successfully and satisfactorily perform such duties, receive training and instruction, meet required standards, pass examinations and obtain such licensure as determined by the board. The program will last not less than four calendar years and be comprised of an apprentice period and a deputy pilot period. Successful completion of the program is required prior to the board approving the deputy pilot for unrestricted pilot status.

1. The board shall determine the number of selected applicants admitted into the Pilot Development Program at any given time.

B. Apprentice Period

1. All persons participating in the Pilot Development Program shall successfully complete the apprentice portion of the program designed and administered by the board. The Apprenticeship Period shall last for a period of not less than one calendar year. This Apprentice Period shall include the following:

a. not less than one year of training and instruction prior to commissioning, during which time the apprentice shall accompany state commissioned pilots in the performance of their duties;

b. advanced qualification testing;

c. any necessary license preparation and upgrades; and

d. any other industry related professional development that may be relevant and necessary.

C. Deputy Pilot Period

1. The Deputy Pilot Period of the Pilot Development Program shall last for a period of not less than three calendar years. The Deputy Pilot Period shall include the following:

a. movement of vessels of particular types and sizes and at times under specific conditions set by the board;

b. training and instruction during which the Deputy Pilot accompanies pilots in the performance of their duties;

c. advanced qualification testing;

d. any necessary license preparation and upgrades;

e. successful completion of licensure and education requirements; and

f. any other industry related professional development that may be relevant and necessary.

D. Time to Complete the Pilot Development Program

1. The Apprentice Period shall be successfully completed within a timely period unless the board determines that exceptional conditions apply such as illness, injury or limited availability of a necessary resource. Participants who fail to demonstrate satisfactory progress as determined by the board shall be subject to dismissal from the Apprenticeship Program.

2. The Deputy Pilot Period may last up to four years provided the participant is making acceptable progress as determined by the board.

3. The Deputy Pilot Period may be extended up to one additional year after the initial four years at the discretion of the board. If, after the one year extension period, the deputy pilot fails to meet the criteria and standards set by the board, said deputy pilot shall be released from the Pilot Development Program and a recommendation will be made to the governor to have the deputy pilot's state commission revoked.

E. Grounds for Release from the Pilot Development Program

1. Any program participant who fails to meet the criteria and standards set by the board shall be released from the Pilot Development Program and will not be recommended to the governor for commissioning. If, already commissioned, a recommendation will be made to have the deputy pilot's state commission revoked.

2. Grounds for release from the Pilot Development Program include, but are not limited to:

a. failure to complete the requirements of any period, stage, segment, license upgrades or educational requirements necessary to progress or complete the program;

b. recklessness and/or display of lack of judgment;

c. disregard of state rules, laws, and regulations;

d. disregard of United States Coast Guard rules and regulations;

e. lack of fitness for the position and responsibilities of a pilot; and

f. any violations of standards of conduct as enumerated in §6307 of the board's rules.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:496 (March 2010), LR 38:3167 (December 2012).

§6210. Examination by the Board of Examiners; Recommendation to Governor

A. In order to be recommended to the governor for commissioning as a pilot, all apprentices must complete an examination to be conducted by the board as a practicum, orally, written or a combination thereof. This examination shall test the apprentice's knowledge of pilotage and demonstrate the apprentice's proficiency and capability to serve as a state commissioned pilot.

B. The board shall certify to the governor for consideration to be commissioned as a New Orleans and Baton Rouge steamship pilot those apprentices who satisfactorily complete all requirements established by state law and these rules and who successfully complete the examination(s) given by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2474 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6211. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

Chapter 63. Standards of Conduct

§6301. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board promulgates these standards of conduct, in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6302. Application

A. The board hereby adopts the following rules and regulations relating to all applicants, apprentices, state commissioned New Orleans and Baton Rouge steamship pilots or any association comprised thereof pursuant to the provisions of R.S. 34:1041 et seq. Where applicable, any conflict is to be construed and resolved in the stricter sense. To that end, all current rules and regulations are adopted and incorporated herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6303. Authority

A. As mandated by R.S. 34:1041 et seq., these rules and regulations, are promulgated by the board, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight of New Orleans and Baton Rouge steamship pilots, apprentices and any association comprised thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:497 (March 2010).

§6304. Definitions

A. As used in this Chapter, the following terms, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

Applicant—any person who has submitted an application to be considered for selection into the Pilot Development Program for New Orleans and Baton Rouge steamship pilot(s).

Application—the completed written application including all supporting documentation supplied to the board by an applicant who desires to become a New Orleans and Baton Rouge steamship pilot.

Apprentice—any person duly selected by the members of NOBRA, but not yet commissioned, who is serving in the Pilot Development Program.

Association or *NOBRA*—New Orleans and Baton Rouge Steamship Pilot Association.

Board of Examiners or *Board*—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Deputy Pilot—a commissioned pilot in the Pilot Development Program.

Fit for Duty—a pilot who meets the board's requirements regarding licensure, physical and medical competency and is current with their continuing education requirements.

Pilot—a New Orleans and Baton Rouge steamship pilot, as designated in R.S. 34:1041 et seq.

Services of a Pilot—any advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

VTC—Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010), LR 38:3167 (December 2012).

§6305. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2475 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6306. Violations of the Policy

A. The board shall take the necessary actions for any violation of its policies, rules and regulations. These actions may include referral of such pilot to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6307. Standards of Conduct

A. The board may in its discretion recommend to the Office of the Governor, reprimand, fine, suspension and/or revocation of a pilot, deputy pilot, or apprentice for the following non-exclusive list of particulars:

1. failure to maintain, in good, valid and current standing a United States Coast Guard First Class Pilot License of any gross tons;
2. failure to remain a qualified and registered voter of the State of Louisiana;
3. failure to successfully complete continuing professional education requirements;
4. failure to maintain a current satisfactory United States Coast Guard approved physical (Merchant Mariner Physical Examination Report);
5. conviction of any felony from any jurisdiction whatsoever;
6. any violation of the board's drug and alcohol policy;
7. neglect of duty; and
8. any violation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010), LR 38 3167 (December 2012).

§6308. Obligation of Pilots

A. Obligation of safe pilotage rest entirely with each and every individual state commissioned pilot. When a pilot offers themselves for any pilotage assignment, such pilot certifies and warrants that they are competent, capable and qualified for such assignment and will perform such assignment in compliance with all applicable standards and duties.

B. A pilot who has been ill or injured to the extent that the pilot has been unable to perform pilotage duties for a period of 30 calendar days or longer or, who after submitting their annual physical to the United States Coast Guard is notified that the Medical Evaluation Division has determined that a condition exists that warrants further medical evaluation shall:

1. notify the board, or arrange for it to be notified as soon as possible, after the 30th day of the disability; or immediately notify the board upon receipt from the United States Coast Guard requiring further medical review; and
2. not resume pilotage duties until the pilot has successfully completed and submitted a Merchant Mariner Physical Examination Report to the board.

C. Before allowing the pilot to return to duty, the board may require the pilot to:

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1. submit to an examination, at the board's expense, by a board selected physician;
2. complete a re-orientation program established by the board; and/or
3. appear before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:498 (March 2010).

§6309. Adoption of Navigational Rules

A. Pilots shall use a standard of navigation consistent with that of a prudent pilot in adherence with common local practices.

B. Pilots shall use their own independent judgment when piloting an assigned vessel.

C. The board does not direct or control a pilot in the performance of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010), LR 38:3167 (December 2012).

§6310. Continuing Professional Education **[Formerly §6311]**

A.1. Every pilot seeking to maintain a pilot's commission must successfully complete the following required courses every five years:

- a. A Bridge Resource Management (B.R.M.P.) course or seminar for pilots;
- b. An Emergency Ship Handling course or seminar for pilots;
- c. A marine technical course or seminar, which includes vessel traffic service training;
- d. A course or seminar in marine electronic navigation for pilots;
- e. A course or seminar on applicable United States Coast Guard navigation regulations (Rules of the Road); and
- f. A course or seminar on marine incident management for pilots.

2. Every pilot must annually and successfully complete 8 hours of professional development courses approved by the board. The board may, from time to time, adjust these requirements in order to maintain the highest level of professional competency and pilot safety.

B. All professional education classes and programs shall be approved by the board. The board will maintain a non-exclusive list of approved professional education classes and programs, which may be periodically updated.

C. It is the responsibility of the pilot to attend the necessary professional education classes and to present the board with proof of satisfactory completion.

D. Any pilot who fails to successfully complete the required professional education classes or programs will be removed from duty until the pilot complies with the requirements of this section.

E. The board may, for good cause shown, grant a waiver or extend the time for a pilot to complete the continuing professional education requirement, upon timely application, in writing, by the pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:499 (March 2010), LR 38:3167 (December 2012).

§6311. Mandatory Rest Period **[Formerly §6312]**

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of eight hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall the captain of the station and shift pilots exceed 12 bridge hours in any 24 hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 8 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24 hour period. Pilots requesting eight hours rest period shall not be called or dispatched in less than 8 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in

no case shall any pilot exceed 12 bridge hours in any 24 hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012).

Chapter 64. Investigations and Enforcement

§6401. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. In accordance with state law, and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the office of the governor, of any and all violations of board rules and state and/or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2476 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6402. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the board in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for oversight of pilots, apprentices, candidates or any association of pilots comprised thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6403. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid or unenforceable, for any reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6404. Duty to Report

A. In any case, where a vessel under pilotage shall go aground, or shall collide or allide with any other object, or shall meet with any incident, or be injured or damaged in any way, the pilot shall report the matter as follows:

1. report the incident to the nearest United States Coast Guard Marine Safety Unit by way of the most expeditious means available;

2. report the incident by way of the most expeditious means available to NOBRA and report for mandatory post incident drug and alcohol testing;

- a. notify the board of the incident by way of the most expeditious means available;

3. be available for interview by the board and furnish complete details of the incident; and

4. submit a written report to the board as soon as practical, but no later than thirty days following the incident.

B. Any pilot who neglects or refuses to submit a written report to the board as required by these rules may be reported to the governor for possible disciplinary action.

C. Any pilot requested or summoned to testify before the board shall appear in accordance with said request or summons and answer any questions related to or in any way connected with the pilot's service. The pilot has the right to legal counsel at this meeting.

D. Upon receipt of any incident by a pilot the board shall conduct an investigation and take appropriate action commensurate with the nature of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3168 (December 2012).

§6405. Removal from Duty

A. When any examiner has reason to believe that the conduct or actions of a pilot is creating a dangerous or unsafe condition, the examiner may immediately relieve that pilot from duty, without the necessity of formal notice and hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the board shall conduct an investigation of the pilot's conduct, as per these rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States Constitutions.

B. When any examiner has reason to believe that a pilot is or may be under the influence of alcohol, drugs or any other stimulant or depressant or is suffering from a medical condition that may affect the pilot's ability to perform their duties, the examiner shall immediately relieve that pilot from pilotage duty, without the necessity of formal notice and hearing, in order to protect the interests of the State of Louisiana. However, at the earliest possible time, the board shall conduct an investigation of the pilot's conduct or condition, as per these rules, and conduct any necessary hearings in order to protect the due process and equal protection requirements afforded the pilot by the Louisiana and United States Constitutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2477 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010).

§6406. Investigations and Enforcement

A. All incidents and complaints reported to the board shall be referred for investigation.

1. any source may file a sworn complaint within one year of the alleged acts complained of;

2. the board shall receive any sworn complaint from any source against any pilot, deputy pilot or apprentice while in the performance of his duties;

3. any sworn complaint submitted by any source to the board shall be typewritten and submitted on plain paper and shall include the date and time of the incident, a description of what happened, the type of incident, casualties, location, conditions, name of vessel piloted, if known, any other vessels, structures, or objects involved, the name of the pilot, if known, and any allegations against the pilot, and shall be given in an authentic act in which the complainant swears to the truthfulness of the allegations, subject to the penalties of perjury;

4. if a sworn complaint is not submitted in the prescribed manner, the board shall return it, with an explanation of error, and without prejudice to the sender to properly refile.

B. The board shall appoint an investigating officer to conduct a preliminary investigation of the incident and/or complaint and report their findings to the board.

C. Following the preliminary investigation, the board shall determine whether the incident and/or complaint is sufficient to justify further proceedings or may dismiss the matter.

D. If after the preliminary investigation, the board is of the opinion that the incident and/or complaint is sufficient to justify a full investigation, the board shall, if so required by law, notify the office of the governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the incident and/or

complaint. Following receipt of authority from the governor, if so required by law, the board shall authorize its investigating officer to conduct a full investigation of the incident and/or complaint.

E. Following the full investigation, the investigating officer shall make a report to the board, who, in its exclusive discretion, shall determine whether the incident and/or complaint is sufficient to justify further proceedings or may dismiss the incident and/or complaint.

F. Following the full investigation, if the board is of the opinion that an administrative hearing is required, the board shall give notice to the pilot. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is being held;

3. a reference to the particular sections of the statutes and rules involved; and

4. a short and plain statement of the matters asserted.

G. The board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any pilot may be represented in any adjudication/hearing before the board by an attorney at law duly admitted to practice in the State of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through designated counsel of record.

I. Any pre-hearing motion shall be referred for decision to the board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

J. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

K. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

L. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify

before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

M. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in open session, unless the respondent/pilot expressly requests that the matter be conducted in executive session, all as per law.

N. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

O. Unless stipulation is made between the parties, and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings. Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be their responsibility; in no way whatsoever shall the board be liable for nor responsible for costs or fees incurred by the respondent/pilot.

P. During evidentiary hearing, the board shall rule upon all evidentiary objections and other procedural questions, but may consult in or out of executive session, all as per law. At any such hearing, the board may be assisted by legal counsel, who is independent of the prosecutor and who has not participated in the investigation or prosecution of the case.

Q. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board;
7. findings of fact; and
8. conclusions of law.

R.1 In an adjudication hearing, the board may give probative effect to evidence which possesses probative value

commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the board which the parties desire the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

S.1. The final decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

T.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed herein above and shall set forth the grounds upon which such motion is based, as provided herein.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. The decision is clearly contrary to the law and the evidence;
- b. The respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

c. Other issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. There exists other good grounds for further consideration of the issues and the evidence in the public interest.

U. As per law, the board shall have the specific authority to recommend probation, to impose a fine, to recommend reprimand or removal from duty, or to recommend to the governor that the commission of any pilot be suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2478 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:501 (March 2010), LR 38:3168 (December 2012).

§6407. Recusal

A. No member of the board shall participate in the investigation of or vote on any matter to which he/she is a party to or in which he/she has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2479 (November 2004), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:502 (March 2010).

Chapter 65. Drug and Alcohol Policy

§6501. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by pilots, the board will maintain and enforce a strict policy of zero tolerance for the use of prohibited drugs and the misuse of alcohol. Prohibited drugs shall not be used, possessed, nor distributed by any pilot, at any time, whether on duty or off duty.

B. To this end, all state commissioned NOBRA pilots shall be subject to drug and alcohol testing as per U.S. DOT rules (49 CFR Part 40) and United States Coast Guard regulations (46 CFR Parts 4, 5 and 16). This testing is federally mandated and all rules for specimen collection, handling, testing, confirmation, reporting and medical review shall be adhered to at all times. Additionally, in order to maintain its policy of zero tolerance, the board hereby establishes an enhanced drug screening program, over and above the federal rules. All pilots, apprentices and applicants shall be subject to this enhanced drug screening program, in addition to any testing required under the federal rules. As outlined below, this enhanced drug screening program shall consist of screening in the following situations: pre-qualification, random, post accident, reasonable suspicion, return to duty and follow-up.

C. Any violation of this drug and alcohol policy shall be reported to the United States Coast Guard and shall subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1794 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:502 (March 2010).

§6502. Definitions

A. As used in this Chapter:

Administrative Procedure Act (APA)—the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Alcoholic Beverage—any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

Applicant—any person who submits the written application for admission into the Pilot Development Program.

Application—the form supplied by the board to any individual seeking selection into the Pilot Development Program.

Apprentice—any person duly selected but not yet commissioned, to serve in the Pilot Development Program.

Board of Examiners—Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established by R.S. 34:1041 et seq.

NOBRA Pilot or Pilot—a commissioned Mississippi River pilot for the territory established in R.S. 34:1041 et seq.

Drug—any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

Prescription Medication—any medication distributed by or with the authorization of a licensed physician, as defined in R.S. 40:961(33).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots LR 28:1794 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6503. Circumstances for Drug Testing

A. Regular and random, unannounced urine and hair drug screening shall be done at a frequency designed to assure the state, shipping clients and the general public that the board is dedicated in its enforcement of a zero tolerance

policy towards prohibited drugs and the abuse of prescription drugs.

B. Additionally, the board reserves the right to require a drug screen whenever the board has reasonable suspicion a pilot is under the influence of a drug. Such screen may be done by any means chosen by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6504. Urine Testing

A. Any pilot involved in an accident or incident while performing his duties as a pilot shall be subject to a urine drug screen test, as required by these rules, U.S. DOT rules and United States Coast Guard regulations. This urine drug screen shall consist of an expanded screening panel designed to detect various illegal drugs, and commonly abused prescription drugs, which are not detected by standard U.S. DOT screens. The expanded panel shall be determined from time to time at the discretion of the board. The results of all drug screens taken pursuant to this paragraph shall become part of the pilot's permanent personnel file.

B. In addition to these required drug screens, all pilots shall be subject to random urine screening by means of the expanded screening panel. This random urine screen will be at a rate of a minimum of six pilots per month. The board shall design a protocol for the random selection of the pilots to be tested. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6505. Hair Testing

A. Every NOBRA pilot shall submit to a hair drug screen on a bi-annual basis. The timing of the bi-annual hair drug screens for each pilot shall be randomly selected as per a protocol designed by the board. Each pilot shall appear for their hair drug screen when notified to do so by the board. This hair screen is designed to detect various illegal drugs, and commonly abused prescription drugs, which may have been used by a pilot. Failure to timely appear for testing or refusing to provide proper or adequate samples will subject the pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:503 (March 2010).

§6506. Split Sample/Safety Net Testing

A. Whenever there is a positive test result, that pilot shall be entitled to split sample/referee sample testing or safety net testing through the board's designated testing facilities.

B. The board shall designate, an authorized testing facility or laboratory.

C. The designated testing facility or laboratory shall ensure and be responsible that all specimen collection and related procedures are properly followed and maintained.

D. The designated testing facility or laboratory shall be responsible for the safeguarding of all specimen collection facilities, equipment and samples collected.

E. Samples shall be taken, witnessed and handled in accordance with all applicable federal guidelines.

F. The designated testing facility or laboratory shall assist in ensuring that the sample will be correctly and properly transferred for testing purposes.

G. The following procedure is hereby established for the testing of a split or referee urine, blood or hair sample.

1. Upon the timely request of a pilot, a urine or blood specimen may be split or divided into approximately equal parts; one being processed for initial laboratory testing for detection of the presence of prohibited drugs or substances therein; the remaining or second part shall be identified as the split or referee sample to be processed for future testing under the following procedures. Failure to timely request the taking of a split or referee sample shall be deemed, classified and designated as a waiver of any and all rights to have a split or referee sample.

2. As to hair, upon notice that a test result has been returned or reported as positive, the pilot shall have twenty-four hours to notify the testing facility that the pilot requests that the referee sample be properly taken and tested. Failure of the pilot to timely notify the testing facility that the referee sample is to be tested shall be deemed classified and designated as a waiver and forfeiture of having the referee sample tested.

3. The split or referee sample may, at the election of the pilot, be tested by an alternate testing facility or laboratory, as pre-approved by the board.

H. All test reports shall be submitted to this board in writing.

I. Reports to this board shall present documentary or demonstrative evidence acceptable in the scientific community and be admissible in court in support of a professional opinion as to the positive findings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1795 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6507. Effect of Positive Drug Screen/Disciplinary Action

A. Any pilot with a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen shall be reported to the United States Coast Guard and will place the pilot's state commission in jeopardy. Any pilot testing positive for a prohibited drug, or residual thereof, shall be removed from duty, pursuant to the board's rules, pending a hearing pursuant to R.S. 34:1042. Any pilot who presents a positive drug screen shall be subject to disciplinary action by the board, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the board on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use shall do so at their personal expense. In addition, the evaluation and treatment facility must be pre-approved by the board.

C. Refusing a drug screen, or any attempts at alteration or substitution of samples is considered a violation of the federal rules, as well as this policy. Any pilot who refuses to submit to a drug screen, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to the board's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, avoiding the directions of the board after an incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the board.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the board to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the board. Furthermore, avoiding the directions of the board after an incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6508. Prescription Drug Use

A. Every pilot has a duty to ascertain whether a prescription medication, legally prescribed, will impair their ability to safely perform their piloting duties. If, after consultation with their treating physician, a pilot reasonably believes or has been informed or advised that a prescription

medication may cause impairment, the pilot shall inform the board and remove themselves from duty until such time that their treating physician, in consultation with a physician specializing in occupational medicine, to be named by the board, certifies that they may return to duty or changes the medication to one which will not impair the pilot.

B. If a drug screen indicates the presence of a prescription drug which may impair a pilot's ability to perform their piloting duties, and the pilot has not voluntarily taken leave, the pilot shall be removed from duty until such time the board, in consultation with a physician specializing in occupational medicine to be named by the board, can determine that the pilot is fit for duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:504 (March 2010).

§6509. Alcohol Use

A. No pilot shall consume any alcohol within six hours before, or during, the performance of their piloting duties. Alcohol testing shall be conducted following any incident involving a pilot in the performance of their duties. The board and/or the Board of Directors of NOBRA may also require a pilot to submit to alcohol testing upon reasonable suspicion that a pilot is performing his duties while under the influence of alcohol. Duty, in this case, shall be defined as the time the pilot is dispatched for pilotage services. Testing positive for alcohol while on duty is directly reportable to the board and is not subject to review by a Medical Review Officer. Any pilot who requires medicines, such as cough and cold medications, which may have a small amount of alcohol, should ask their physician or pharmacist to recommend a non-alcoholic medication. While the United States Coast Guard prohibits alcohol use above the level of 0.04 percent BAC, the board reserves the right to take disciplinary action on lower alcohol levels, depending on the facts and circumstances of each particular case.

B. Any positive alcohol test shall be reported to the United States Coast Guard and shall place the pilot's state commission in jeopardy. Any pilot testing positive for alcohol shall be removed from duty pending a hearing. Any pilot with a positive alcohol test shall be subject to disciplinary action. The proper disciplinary action shall be determined on a case by case basis. In addition, the board may require the pilot to undergo evaluation and treatment at a facility pre-approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1796 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6510. Confidentiality

A. The results of all positive drug screens and alcohol tests shall be confidential and shall not be disclosed to any entity or person other than:

1. The Governor of Louisiana;
2. The board of Louisiana River Pilot Review and Oversight;
3. The United States Coast Guard; and
4. In the event that the board determines that a hearing is required pursuant to R.S. 34:1042, there shall be no requirement of confidentiality in conducting the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6511. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable, for any

reason whatsoever, may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).

§6512. Applicable Procedures

A. Any investigation, action or disciplinary proceeding undertaken in conjunction with this policy shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 28:1797 (August 2002), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:505 (March 2010).